

system indicators has patentable significance in combination with the claimed protective enclosure or cover for a keyboard. In particular, it is noted that Applicant discloses that the inventive cover has the advantage that it provides for improved "touch or feel" of the keyboard key surface through the cover. (See, e.g., the abstract) Consequently, a recitation of this feature of the keys is in furtherance of the advantages disclosed in the application. Withdrawal of this aspect of the rejection is respectfully requested.

Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nopper et al.* (U.S. Patent 5,021,638) in view of *King-DeBaun* (U.S. Patent 6,285,299). For convenience, these references will be cited as "*Nopper*" and "*King*". This rejection is respectfully traversed.

The Examiner relies on *Nopper* with respect to various aspects of several of the pending claims. In particular, claims 1 and 18 with respect to the structure and method as claimed, referring to the various top, side, front and rear panels. However, no specific mention is made of the method features of the instant claims. Regarding claims 2, 3 and 10, *Nopper* is said to include an elastic material such as silicone rubber. With respect to claims 4 and 5, *Nopper* is said to teach a plate which overlays a portion of the obverse keyboard face. With respect to claim 15, *Nopper* is said to inherently disclose the stretch as a consequence of the Examiner's interpretation of Figs. 3 and 3a of *Nopper*.

The Examiner further states that *Nopper* does not teach the top panel which does not correspond to the depressions or elevations of a specific keyboard array. The Examiner states, "However, *King* teaches a keyboard cover 13 having a top panel (Fig. 2, no numeral reference) or 18 as shown in Fig. 3, which does not correspond to the depressions or elevations of a keyboard 20." The Examiner concludes, "Therefore, it would have

been obvious to one of ordinary skill in the art to modify the keyboard of *Nopper* by providing the top panel as taught by *King* for simplicity in design of a keyboard cover." This analysis and conclusion is respectfully traversed.

Reliance by the Examiner on the reference *Nopper* is confusing and inappropriate. Specifically, Applicant has explicitly excluded the technology disclosed in *Nopper* since *Nopper* provides a solution that is contrary to the presently claimed solution. In particular, the claims of the present invention are directed to a protective enclosure or keyboard cover that requires that the top panel of the cover "does not correspond to the depressions or elevations of a specific keyboard array." *Nopper* itself recognizes that its solution requires that the keyboard cover be modified so as to "fit" keyboards of various arrays. (column 2, lines 65-68) Applicant specifically teaches on page 2, paragraph [0006], "One particular drawback of prior art covers was the requirement of a separately molded cover to be manufactured for each keyboard array available on the market (currently numbering approximately three thousand); an expensive solution for the manufacturer, distributor and end-user." For the Examiner to continue to rely on *Nopper*, either alone or in combination with another reference, is to ignore the specific teachings of both *Nopper* and the present invention as to the mutually exclusive solutions to which each is directed. The Examiner has selectively extracted features from each in order to find some commonality as a basis for the rejection. However, to do so ignores the conflict in the teachings of *Nopper* with regard to the present invention.

In particular, as noted, the Examiner states that it would have been obvious to one of ordinary skill in the art to modify the keyboard of *Nopper* by providing the top panel as taught by *King* for simplicity in design of a keyboard cover.

Such a combination of references is contrary to MPEP 2143.01, "Suggestion Or Motivation To Modify The References." The principles outlined in this section of the MPEP clearly demonstrate that the Examiner's combination of these two references is contrary to accepted practice. For example, the so-called "simplicity in design" recited by the Examiner is taken from Applicant's disclosure and not only does not appear in *Nopper* but is also contrary to the teachings of *Nopper* as quoted above with regard to needing to modify the *Nopper* cover so as to fit keyboards of various arrays. As noted in MPEP 2143.01, "The prior art must suggest the desirability of the claimed invention."

Furthermore, the level of skill in the art itself cannot be relied upon to provide the suggestion to combine references. Given the teaching of *Nopper*, it is not understood how one of ordinary skill in the art, having the reference before him or her, would be motivated to make the proposed modifications suggested by the Examiner. As noted in the MPEP, the "fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness." (*emphasis added*) The prior art itself must suggest the desirability of the combination. In this case, such desirability cannot be found since the teachings of *Nopper* are contrary to the modification proposed by the Examiner.

Finally, it is noted that the MPEP states, "The proposed modification cannot change the principle of operation of a reference." In this particular case, modifying *Nopper* as suggested by the Examiner completely changes the principle of operation of *Nopper* as disclosed since there will no longer be molded elements corresponding to a specific keyboard array. In other words, its reason for being will no longer exist. Withdrawal of this aspect of the rejection is respectfully requested.

The Examiner rejects claim 19 on the basis that it would have been obvious to one of ordinary skill in the art of preventing or avoiding a transmission of disease since the steps of applying and removing a personal cover to an apparatus used by many users is well known. The Examiner relies for support on the personal earphone cover used for listening to music on an aircraft. This analysis is respectfully traversed.

To begin with, the analysis relies on a different technology based on an open-cell foam cover used on a headset earpiece. This is in contrast to the structure of Applicant's protective cover. Furthermore, an earpiece is inserted into a body cavity (the ear), which in and of itself suggests the need to avoid disease transmission. This differs significantly from the manner in which a computer keyboard is used. In addition, there is no suggestion of the need to avoid disease transmission other than by reference to Applicant's own disclosure. The Examiner provides no supporting reference relating to a cover of the type claimed, having the additional feature of universal applicability, ease of application and ease of removal for preventing the transmission of disease, and the maintenance of features suitable to the use of this particular technology, e.g., maintaining the touch and feel of the keyboard array beneath the cover. As noted above, the fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish *prima facie* obviousness.

It is noted that in the "Conclusion" portion of the Office Action (page 5), the Examiner states, "The patents to *Stanley, Speraw, Larson* and *Borchard* are cited to show other method and structures having obvious similarities to the claimed method and structure." It is noted that this conclusion is not offered as a basis for rejecting the pending claims.

In conclusion, it is observed that Applicant's solution is elegantly simple. It is respectfully suggested that, on the basis of the above analysis, the present claims be passed to allowance.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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